

CITY COUNCIL REPORT



Meeting Date: November 12, 2014
 General Plan Element: *Land Use*
 General Plan Goal: *Coordinate Planning to Balance Infrastructure*

ACTION

Miller Residence Abandonment 3-AB-2013

Request to consider the following:

1. Adopt Resolution No. 9732 approving the abandonment of the western 33-foot GLO (General Land Office Patent Easement) located along the N. 130th Way alignment and the northern 3 feet of the northern 33-foot GLO easement, along E Gold Dust Avenue, adjacent to parcel 217-31-020F, located at 13030 E. Gold Dust Avenue, with Single-family Residential, Environmentally Sensitive Lands (R1-43/ESL) zoning.

Key Items for Consideration

- The proposal will reserve and dedicate an eight (8) foot public utility easement along the subject property's eastern boundary.
- The owner shall provide compensation to the city.
- Planning Commission heard this case on June 11, 2014 and recommended approval with a unanimous vote of 7-0.

OWNER

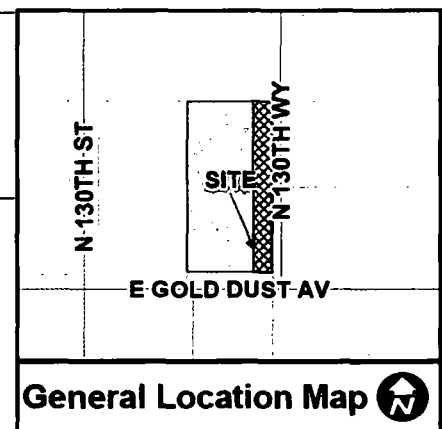
Vicki & Robert Miller
602-550-7170

APPLICANT CONTACT

Clint Scherf
S S E
480-225-4920

LOCATION

13030 E. Gold Dust Avenue



BACKGROUND

Background

The subject three (3) feet of the thirty-three (33) foot General Land Office Patent Easement (GLO) located at the E. Gold Dust Avenue alignment, along the southern boundary of 13030 E. Gold Dust Avenue, was dedicated in August 1954, through patent serial number 1146727. The subject thirty-three (33) foot General Land Office Patent Easement (GLO) located at the N. 130th Way alignment, along the eastern boundary of 13030 E. Gold Dust Avenue, was dedicated in August 1954, through patent serial number 1146727.

General Land Office Patent Easements (general information)

- Within the City of Scottsdale there are General Land Office (GLO) lots or parcels of various sizes created by the Federal Small Tract Act. This act was passed in 1938 and repealed in 1976.
- Most GLO lots were patented with thirty-three (33) foot (or sometimes 50 foot) roadway and public utility easements typically “as near as practicable to the exterior boundaries.”
- The city has viewed these patent roadway and utility easements as assured access at least until a local circulation plan is established.
- As GLO lots come in for development (i.e., lot splits, subdivisions or requesting building permits) staff requires city right-of-way dedications per city circulation plans. The city’s transportation plan establishes a street system to replace the grid pattern created by the GLO easements.
- Any patent easements in excess of the current requirements to the circulation plans (including trails), roadway standards, and not required to ensure access to any other lot, may be requested to be abandoned.
- In 1981, City Ordinance 1386 was adopted delegating the authority for the release of GLO easements to the Engineering Services Director.
- On March 2, 1999, the City Council repealed Ordinance 1386 and adopted Ordinance 3219 which requires the abandonment of the GLO patent roadway easements to go through the same public hearing process currently used for all rights-of-way, alleys, and roadway easements. The City Attorney’s office has concluded that this process for consideration of GLO roadway abandonment satisfies legal requirements.
- On August 12, 2005, Arizona Revised Statute section 9-500.4 became effective. This section gives the local municipality the right to abandon GLO patent easements, and concurs with the city’s position on abandonment of GLO patent easements.

The subject GLO roadway easements were reserved on the original patent deed to ensure legal access. Currently, the northern thirteen (13) feet of the northern thirty-three (33) foot GLO easement located along E. Gold Dust Avenue and the western thirty-three (33) foot GLO easement located along N. 130th Way are unimproved.

Zoning

The site is zoned Single Family Residential District, Environmentally Sensitive Lands (R1-43/ESL). The R1-43/ESL zoning district allows for single-family residential uses and has an Environmentally Sensitive Lands zoning designation.

The subject parcel, 217-31-020F, was annexed into the City of Scottsdale in May of 1975. The

annexed parcel was rezoned from the county designation to the City's Single-Family Residential District (R1-43) through case 31-ZN-1975. In 1991, the Environmentally Sensitive Lands (ESL) ordinance was applied to this site. The current ESL overlay applied to this site went into effect in 2004.

General Plan

The General Plan Land Use Element designates the property as Rural Neighborhoods. This category designation includes areas of relatively large lot single-family neighborhoods. Densities in Rural Neighborhoods are usually one house per acre (or more) of land. The designation and use will remain unchanged by this abandonment request.

Character Area Plan

The property is located within the East Shea Character Area boundary. The East Shea Character Area is designed to be primarily a residential neighborhood which has two large community or regional based facilities. Development in this area pioneered many site planning, landscaping, and design concepts for the desert terrain setting.

Context

The subject property is located at the northwest corner of the E. Gold Dust Avenue and N. 130th Way alignment intersection. The City of Fountain Hills is located approximately one mile to the east of the subject parcel. The subject parcel will be accessed from E. Gold Dust Avenue; and four parcels located to the east of this site are accessed by a twenty (20) foot ingress and egress and public utility easement dedicated with the land division of those parcels.

Adjacent Uses and Zoning

- North Single-Family Residential, Environmentally Sensitive Lands (R1-43/ESL) zoned; single-family homes and an APS Substation.
- South Single-Family Residential, Environmentally Sensitive Lands (R1-43/ESL) zoned; single-family homes.
- East Single-Family Residential, Environmentally Sensitive Lands (R1-43/ESL) zoned; single-family homes.
- West Single-Family Residential, Environmentally Sensitive Lands (R1-43/ESL) zoned; single-family homes.

Related Policies, References:

31-ZN-1975, 55-ZN-1990, and 11-TA-2000#3
1993 Shea Character Area Plan
2001 City of Scottsdale General Plan
2004 Trails Master Plan
2004 Environmentally Sensitive Lands Ordinance
2008 Transportation Master Plan
2010 Local Area Infrastructure Plan

APPLICANTS PROPOSAL

Goal/Purpose of Request

This request is to eliminate the northern three (3) feet of the northern thirty-three (33) foot General Land Office Patent Easement (GLO) located along E. Gold Dust Avenue, adjacent to the southern boundary of 13030 E. Gold Dust Avenue; and to eliminate the western thirty-three (33) foot General Land Office Patent Easement (GLO) located along the N. 130th Way alignment, adjacent to the eastern boundary of 13030 E. Gold Dust Avenue.

The request will allow the applicant to have a building envelope that more closely resembles the building area of the surrounding properties, and bring the property further into conformance with the zoning ordinance with regard to setbacks. The proposal will reserve and dedicate an eight (8) foot public utility easement along the subject property's eastern boundary. The owner shall provide compensation to the city in the amount of \$2,050.20.

IMPACT ANALYSIS

Land Use

The proposed land use for the subject site is in conformance with the General Plan designated land use for the site.

Transportation/Trails

The Local Area Infrastructure Plan (LAIP) was approved by City Council on March 2, 2010. The Transportation Master Plan's LAIP does not require the N. 130th Way alignment as a north/south connection between E. Cochise Road and E. Gold Dust Avenue. The Transportation Master plan designates E. Gold Dust Avenue as "Local Residential, Rural ESL Character with Trail." The half-street geometric requirement for a Local Residential, Rural ESL Character street with Trail is thirty (30) feet. The subject parcel dedicated the existing thirty (30) foot half-street right-of-way, located along E. Gold Dust Avenue, in 1987.

The Transportation Department supports the abandonment of the northern three (3) feet of the northern thirty-three (33) foot General Land Office Patent (GLO) easement along E. Gold Dust Avenue; and the abandonment of the western thirty-three (33) foot General Land Office Patent (GLO) easement along the N. 130th Way alignment, adjacent to 13030 E. Gold Dust Avenue. Surrounding parcels will continue to have access from either E. Gold Dust Avenue or 130th Street. The four parcels located to the east of this site will continue to have access from a twenty (20) foot ingress and egress and public utility easement dedicated with the land division of these parcels.

Public utilities

The utility companies support the abandonment with the dedication of a public utility easement along the eastern boundary of the subject parcel. Letters of approval are on file. An eight (8) foot public utility easement will be reserved and dedicated along the N. 130th Way alignment to accommodate future utility needs.

Emergency/Municipal Services and Utilities

Emergency and municipal services access will be provided and maintained through existing

dedicated public right-of-way along E. Gold Dust Avenue. Emergency and municipal services access will be provided and maintained for the parcels located to the east of this subject site through the existing twenty (20) foot ingress and egress easements located on those properties.

Open space, scenic corridors

The owner of the subject parcel shall satisfy all Natural Area Open Space requirements with this approval as a condition of the resolution.

Community Involvement

The applicant conducted a mailing to property owners within 750 feet of the proposed roadway easement abandonment (See Attachment #8).

Staff has received one email in opposition to the proposed abandonment (See Attachment #9).

Community Impact

The applicant will provide compensation to the City of Scottsdale at a rate of \$0.20 per s.f. of GLO. The total compensation to the City will be \$2,050.20.

No properties will be denied access as a result of this abandonment, and provisions for public utilities and a trail are provided.

OTHER BOARDS & COMMISSIONS

Planning Commission

Planning Commission heard this case on June 11, 2014 and recommended approval with a unanimous vote of 7-0.

OPTIONS & STAFF RECOMMENDATION

Staff Recommendation:

1. Adopt Resolution No. 9732 approving the abandonment of the western 33-foot GLO (General Land Office Patent Easement) located along the N. 130th Way alignment and the northern 3 feet of the northern 33-foot GLO easement, along E Gold Dust Avenue, adjacent to parcel 217-31-020F, located at 13030 E. Gold Dust Avenue.

RESPONSIBLE DEPARTMENT(S)

Planning, Neighborhood and Transportation

Current Planning Services

STAFF CONTACTS (S)

Brandon Lebovitz

Associate Planner

480-312-4213

E-mail: blebovitz@scottsdaleaz.gov

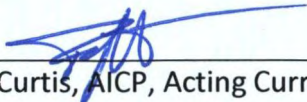
APPROVED BY



Brandon Lebovitz, Report Author

10/13/2014

Date



Tim Curtis, AICP, Acting Current Planning Director
480-312-4210, tcurtis@scottsdaleaz.gov

10/27/2014

Date



Randy Grant, Administrator
Planning, Neighborhood and Transportation
480-312-2664, rgrant@scottsdaleaz.gov

10/28/14

Date

ATTACHMENTS

1. Resolution No. 9732
2. Applicant's Narrative
3. Context Aerial
- 3A. Aerial Close-up
4. Proposed Abandonment Areas Map
5. Zoning
6. Local Area Infrastructure Plan (LAIP)
7. Abandonment History Map
8. Community Involvement
9. Citizen Correspondence
10. City Notification Map
11. June 11, 2014 Planning Commission minutes

RESOLUTION NO. 9732

A RESOLUTION OF THE COUNCIL OF THE CITY OF SCOTTSDALE, MARICOPA COUNTY, ARIZONA, ABANDONING, SUBJECT TO CONDITIONS AND RESERVATIONS, CERTAIN INTERESTS IN A PORTION OF THE PUBLIC RIGHT-OF-WAY FOR GOLD DUST AVENUE WEST OF 130TH WAY AND FOR 130TH WAY NORTH OF GOLD DUST AVENUE

(3-AB-2013)

WHEREAS:

A. A.R.S. Sec. 28-7201, et seq., and A.R.S. §9-500.24 provide that a city may dispose of a public roadway or portion thereof that is no longer necessary for public use.

B. Scottsdale Revised Code §2-221 and other applicable laws provide that the City may dispose of other real property interests.

C. After notice to the public, the City of Scottsdale ("City") City's planning commission and City Council have held hearings on the proposed abandonment of a certain portion of the street right-of-way and other interests (collectively the "Abandonment Right-of-way").

D. The Abandonment Right-of-way is described on **Exhibit "A"** and **Exhibit "B"** attached hereto.

E. The Abandonment Right-of-way falls within, serves, affects or is near the parcel (the "Miller Parcel") comprising approximately 1 acre at the northwest corner of Gold Dust Avenue and 130th Way as described on **Exhibit "C"** and **Exhibit "D"** attached hereto.

F. The Abandonment Right-of-way lies within the area of a General Land Office (GLO) easement created by patent reservation.

G. The owners of the Miller Parcel (each an "Owner") have each executed and acknowledged an "Agreement and Release by GLO Abandonment Parcel Owner". Such documents are attached hereto as **Exhibit "E"**. Such documents provide that:

1. City is releasing only its interest in the General Land Office (GLO) easement, and other persons or entities may claim that this resolution does not completely extinguish the General Land Office (GLO) easement.

2. Each Owner releases City from any and all damages or harm relating to any of such claims.

3. Each Owner warrants and represents that all holders of fee title, leaseholds, liens, exclusive easements, or options affecting Owner's property, if any, have executed and acknowledged an "Agreement and Release by Lender, Tenant, or Other Interest

Holder". (Such documents are attached hereto as **Exhibit "F"**.) The preceding sentence does not apply to ordinary leases to individual residential rental unit tenants.

4. Each Owner warrants and represents that there are no other holders of fee title, leaseholds, liens, exclusive easements, or options affecting Owner's property. The preceding sentence does not apply to ordinary leases to individual residential rental unit tenants.

H. City's city council finds that, subject to the conditions, requirements, reservations and limitations of this resolution, the Abandonment Right-of-way is no longer necessary for public use.

I. City's city council has considered the City expenditure, if any, authorized by this resolution and the direct consideration that City will receive and finds that there is a clearly identified public purpose for City's expenditure, if any, and that City will receive direct consideration substantially equal to its expenditure.

J. City's city council finds that consideration and other public benefit commensurate with the value of the interests in the Abandonment Right-of-way being abandoned, giving due consideration to its degree of fragmentation and marketability, will be provided to City by the owners of the abutting property.

NOW, THEREFORE, BE IT RESOLVED by the city council of the City of Scottsdale, Arizona, as follows:

1. Abandonment. Subject to the reservations and conditions below, City's interests comprising the Abandonment Right-of-way are hereby abandoned.

2. Reservations. City reserves to itself and excludes from this abandonment all of the following cumulative, perpetual interests:

2.1 A perpetual public utility easement as follows:

2.1.1 The easement shall be upon, over, under and across the entire east eight feet (8') of the Abandonment Right-of-way.

2.1.2 The purpose of the easement is for electricity, water, wastewater, storm water, drainage, telecommunications, and all other manner of utilities, and for construction, operation, use, maintenance, repair, modification and replacement from time to time of improvements related thereto.

2.2 Any and all interests in the Abandonment Right-of-way that any related application, zoning case, plat, lot split, use permit, or other land use regulatory process or requirements may require to be dedicated to City.

2.3 Any of the following in favor of City that may already have been imposed on the Abandonment Right-of-way prior to this resolution, if any:

2.3.1 Any V.N.A.E. or other vehicular non-access easement or covenant.

2.3.2 Any N.A.O.S. or other open space or similar easement or covenant.

2.3.3 Any scenic corridor, setback or similar easement or covenant.

2.4 An easement for all existing utilities, if any.

2.5 Such rights and interests, if any, as are required to be reserved by A.R.S. Sec. 28-7210 and A.R.S. Sec. 28-7215.

3. Effective Date. This resolution shall not be recorded or become effective until all of the following conditions (the "Conditions") are satisfied in accordance with all applicable laws, regulations and policies and at no expense to City:

3.1 The owners of the Miller Parcel (and all lenders, tenants, and other interest holders in such parcels) shall convey to City using City specified forms a natural area open space easement covering the portion of such parcel described on **Exhibit "G"** and **Exhibit "H"** attached hereto and a public utility easement covering the portion of such parcel described on **Exhibit "I"** and **Exhibit "J"** attached hereto.

3.2 The owners of the Miller Parcel shall pay to City the combined total amount of Two Thousand Fifty and 20/100 Dollars (\$2,050.20) (the "Payment Amount") as compensation to City for the Abandonment Right-of-way, in addition to any application fees or other amounts related to this resolution and in addition to any other amounts payable to City.

3.3 The zoning administrator executes the certificate at the bottom of this resolution indicating that the Conditions have been satisfied.

4. Administration of Conditions. If the foregoing Conditions are not all satisfied prior to the first annual anniversary of this resolution, or if this resolution is not recorded prior to that deadline, then the city clerk shall mark this resolution to indicate that this resolution is void.

5. Exhibit Labeling. The text of this resolution controls any conflict with the exhibits as to the nature of the interests created, reserved or otherwise affected by this resolution. For example, if the text of this resolution indicates that City is reserving a particular type of easement, but the exhibit text or labels indicate a different type of real estate interest, then the text controls.

PASSED AND ADOPTED by the City Council of the City of Scottsdale this ____ day of _____, 20____.

CITY OF SCOTTSDALE, an Arizona municipal corporation

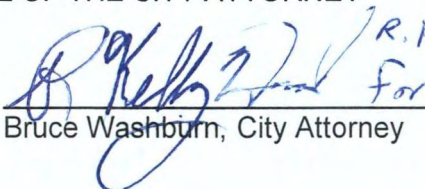
W. J. "Jim" Lane, Mayor

ATTEST:

By: _____
Carolyn Jagger, City Clerk

APPROVED AS TO FORM:

OFFICE OF THE CITY ATTORNEY

By:  *R. Kelly Ward*
for
Bruce Washburn, City Attorney

CERTIFICATE

I am the zoning administrator of the City of Scottsdale. I certify that I have confirmed that the conditions stated in paragraph 3 of the abandonment resolution above have been fulfilled and the resolution is ready to be recorded and become effective.

DATED this _____ day of _____, 20_____.

signature

name printed

Table of Exhibits

<u>Exhibit</u>	<u>Paragraph</u>	<u>Description</u>
A	D	Legal description of street right-of-way to be abandoned
B	D	Scaled and dimensioned drawing to accompany legal description of street right-of-way to be abandoned
C	E	Legal description of Miller Parcel
D	E	Map showing the Miller Parcel
E	G	Owner's fully executed GLO easement release
F	G(4)	Lienholder's and other claimants' fully executed GLO easement releases
G	3.1	Legal description of natural area open space easement to be reserved
H	3.1	Scaled and dimensioned drawing to accompany legal description of natural area open space easement to be reserved
I	3.1	Legal description of public utility easement to be reserved
J	3.1	Scaled and dimensioned drawing to accompany legal description of public utility easement to be reserved

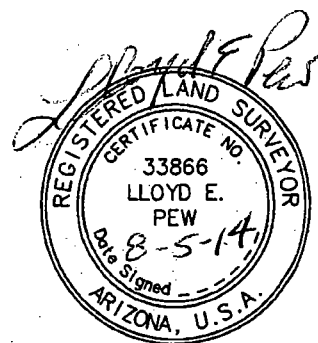
**LEGAL DESCRIPTION
GLO EASEMENT ABANDONMENT**

A portion of a GLO easement for roadway and public utilities purposes as reserved to the United States by the United States Patent No. 1146301 and Supplemented by Patent No. 1146727, situated in the East 150 feet of the South half of GLO Lot 17 of Section 25, Township 3 North, Range 5 East of the Gila and Salt River Base and Meridian, City of Scottsdale, Maricopa County, Arizona.

Said portion of the GLO easement is more particularly described as follows:

The East 33 feet of the South half of said GLO Lot 17, except the South 33 feet of said GLO Lot 17;

And the North 3 feet of the South 33 feet of the East 150 feet of said GLO Lot 17.



EXPIRES 6/30/17

ABANDONMENT OF GLO EASEMENT



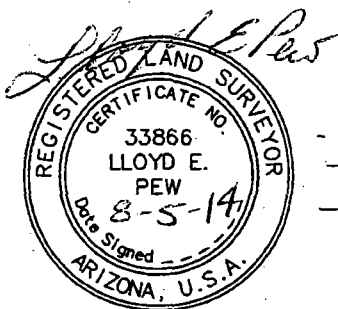
NOT TO SCALE

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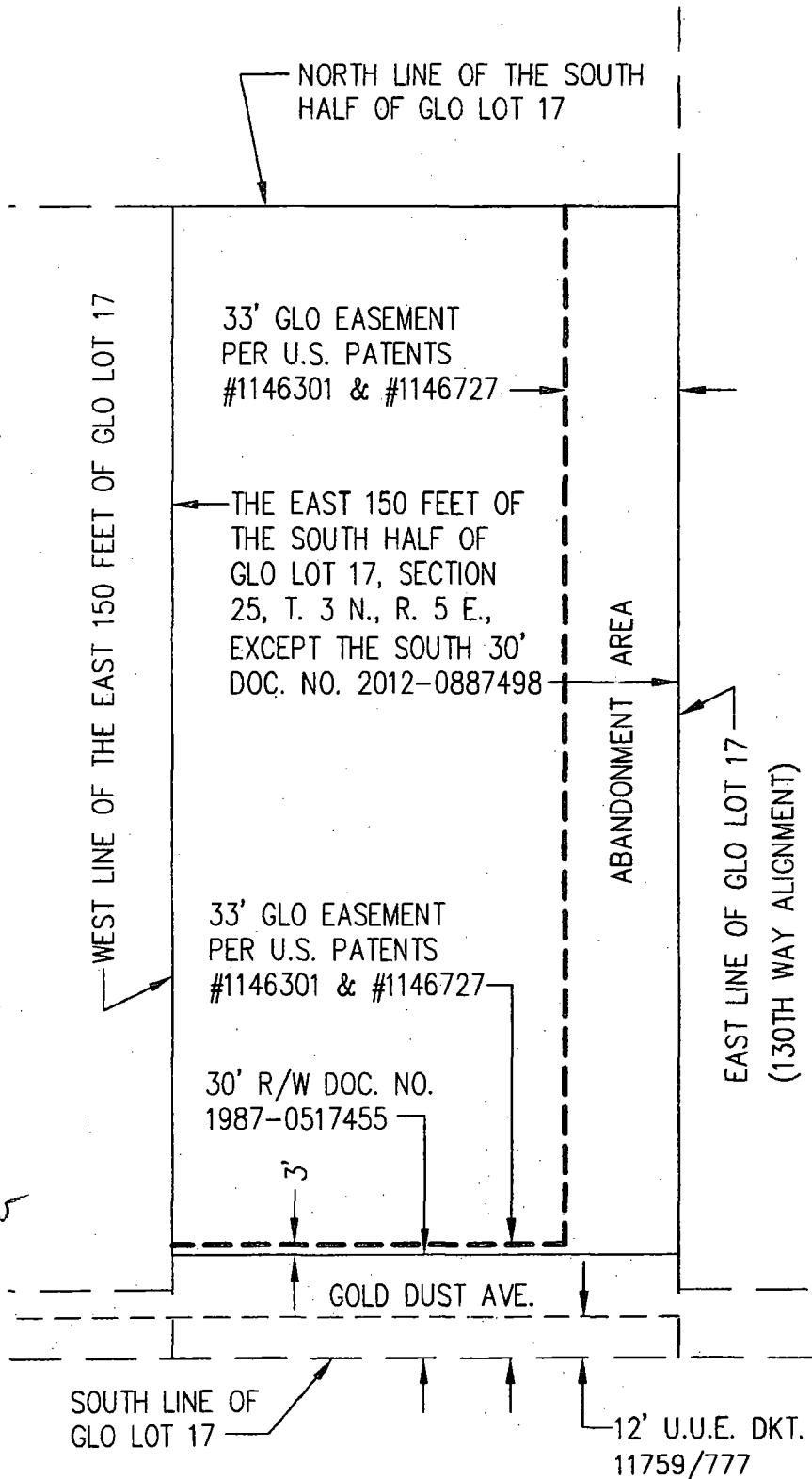
THIS IS NOT A
BOUNDARY SURVEY.

R/W DENOTES RIGHT
OF WAY.

U.U.E. DENOTES
UNDERGRUND UTILITY
EASEMENT.



EXPIRES 6/30/17



**LEGAL DESCRIPTION OF
MILLER PARCEL**

The East 150 feet of the South half of GLO Lot 17 of Section 25,
Township 3 North, Range 5 East of the Gila and Salt River Base and
Meridian, City of Scottsdale, Maricopa County, Arizona;

EXCEPT the South 30 feet.



EXPIRES 6/30/17

THE MAP OF
MILLER PARCEL



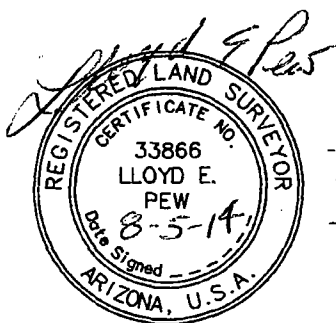
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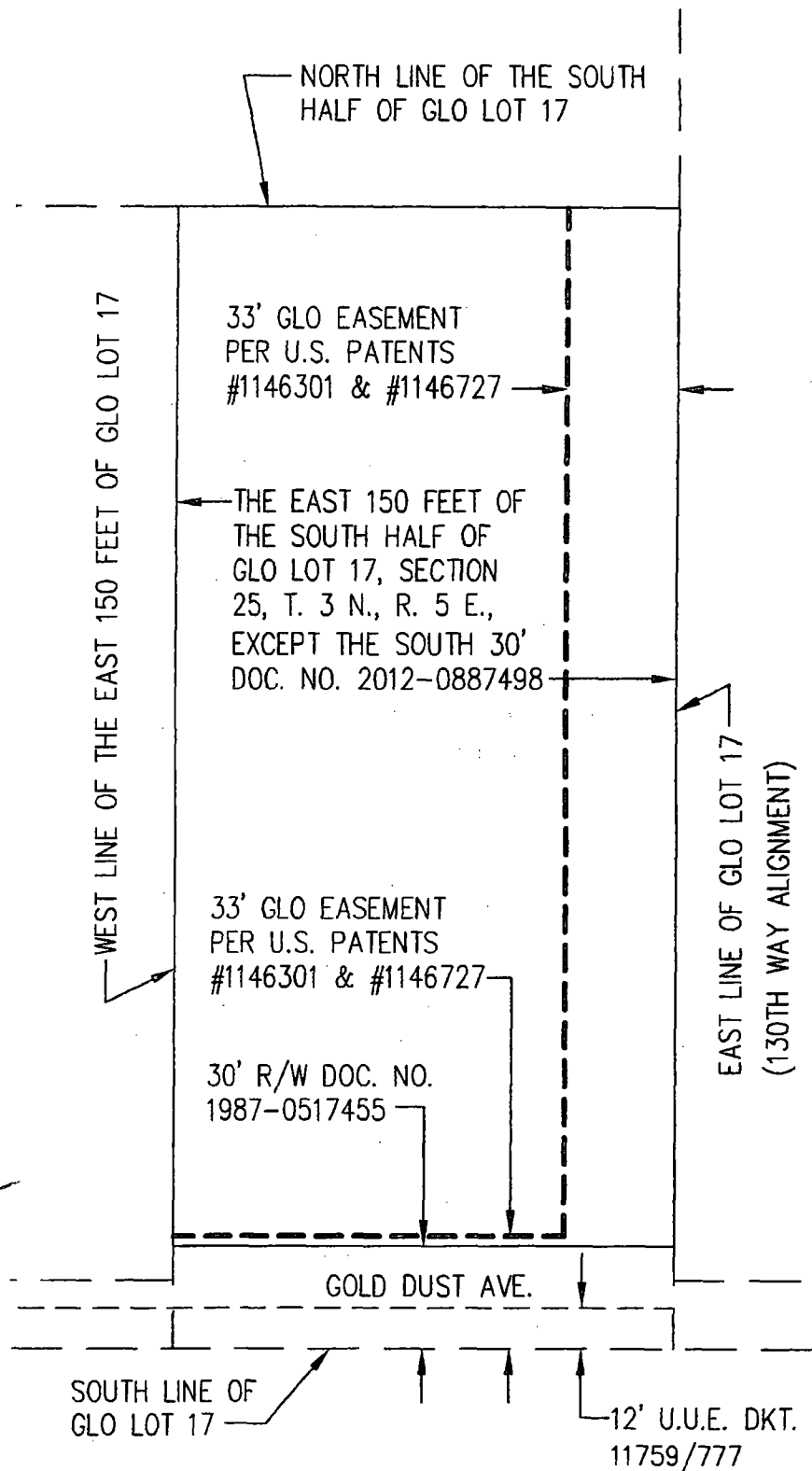
THIS IS NOT A
BOUNDARY SURVEY.

R/W DENOTES RIGHT
OF WAY.

U.U.E. DENOTES
UNDERGROUND UTILITY
EASEMENT.



EXPIRES 6/30/17



RESOLUTION NO. 9732

EXHIBIT "D"

PAGE 1 OF 1

AGREEMENT AND RELEASE BY GLO ABANDONMENT PARCEL OWNER


As an inducement to the City of Scottsdale to approve abandonment resolution No. 9732, the undersigned ("Owner") hereby warrants and represents to be the owner of the fee title to the land across which the General Land Office (GLO) easement passes. Owner also makes certain acknowledgements, warranties and agreements (collectively, the "Assurances") in favor of City as follows:

1. Owner acknowledges that:
 - a. Some or all of the right-of-way covered by the resolution is an easement created by a federal General Land Office (GLO) patent reservation.
 - b. The City of Scottsdale's intent by the resolution is to abandon only the City of Scottsdale's specified interests in the land.
 - c. Other persons or entities may claim that the resolution does not completely extinguish the General Land Office (GLO) easement or may claim rights for themselves or others to use the land for various purposes and/or to prevent any improvement or use of the land that is affected by the resolution.
2. Owner agrees that:
 - a. Owner shall proceed entirely at Owner's own risk as to any damages, delays, loss, difficulties, injury or other harm of any nature that Owner or any third party may now or hereafter suffer due to the existence or abandonment of the easement or due to the resolution or the issues recited above. Owner completely, unconditionally and irrevocably releases the City of Scottsdale from any and all legal or other responsibility for any such harm.
 - b. All of the Assurances run with the land in favor of the City of Scottsdale upon the right-of-way covered by the resolution and upon Owner's land adjoining such right-of-way.
 - c. The City of Scottsdale would not have approved the resolution without the Assurances.
3. Owner makes the Assurances on behalf of Owner and Owner's heirs, successors and assigns, and the Assurances are binding upon all of them.
4. Owner warrants and represents that Owner has delivered to City of Scottsdale an "Agreement and Release by GLO Abandonment Parcel Lender, Tenant or Other Interest Holder" from each lender, tenant and holder of other interests in the land.

Owner: 

STATE OF ARIZONA)
) ss.
County of Maricopa)

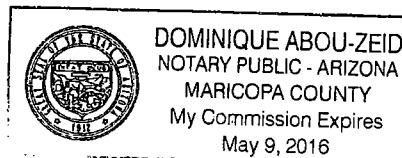
Subscribed, sworn to and acknowledged before me by Vicki C. Miller
this 22nd day of July 20 14.


Notary Public

My Commission Expires:

May 9, 2016

Exhibit "E"
Page 1 of 12



AGREEMENT AND RELEASE BY GLO ABANDONMENT PARCEL OWNER

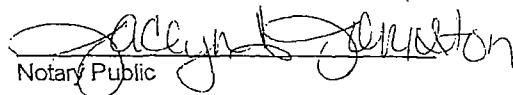
As an inducement to the City of Scottsdale to approve abandonment resolution No. 9732, the undersigned ("Owner") hereby warrants and represents to be the owner of the fee title to the land across which the General Land Office (GLO) easement passes. Owner also makes certain acknowledgements, warranties and agreements (collectively, the "Assurances") in favor of City as follows:

1. Owner acknowledges that:
 - a. Some or all of the right-of-way covered by the resolution is an easement created by a federal General Land Office (GLO) patent reservation.
 - b. The City of Scottsdale's intent by the resolution is to abandon only the City of Scottsdale's specified interests in the land.
 - c. Other persons or entities may claim that the resolution does not completely extinguish the General Land Office (GLO) easement or may claim rights for themselves or others to use the land for various purposes and/or to prevent any improvement or use of the land that is affected by the resolution.
2. Owner agrees that:
 - a. Owner shall proceed entirely at Owner's own risk as to any damages, delays, loss, difficulties, injury or other harm of any nature that Owner or any third party may now or hereafter suffer due to the existence or abandonment of the easement or due to the resolution or the issues recited above. Owner completely, unconditionally and irrevocably releases the City of Scottsdale from any and all legal or other responsibility for any such harm.
 - b. All of the Assurances run with the land in favor of the City of Scottsdale upon the right-of-way covered by the resolution and upon Owner's land adjoining such right-of-way.
 - c. The City of Scottsdale would not have approved the resolution without the Assurances.
3. Owner makes the Assurances on behalf of Owner and Owner's heirs, successors and assigns, and the Assurances are binding upon all of them.
4. Owner warrants and represents that Owner has delivered to City of Scottsdale an "Agreement and Release by GLO Abandonment Parcel Lender, Tenant or Other Interest Holder" from each lender, tenant and holder of other interests in the land.

Owner: 

STATE OF ARIZONA)
) ss.
County of Maricopa)

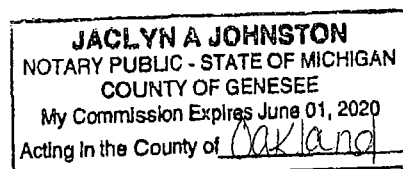
Subscribed, sworn to and acknowledged before me by ROBERT H. MILLER
this 18 day of August 2014.


Notary Public

My Commission Expires:

06/01/2020

Exhibit "E"
Page 1 of 1
202



**AGREEMENT AND RELEASE BY GLO ABANDONMENT PARCEL LENDER, TENANT OR
OTHER INTEREST HOLDER**

As an inducement to the City of Scottsdale to approve abandonment resolution No. 9732, the undersigned lender, tenant, or holder of another interest in the land across which the general land office (GLO) easement passes ("Interest Holder") hereby makes certain acknowledgements, warranties and agreements (collectively, the "Assurances") in favor of City as follows:

1. Interest Holder acknowledges that:
 - a. Some or all of the right-of-way covered by the resolution is an easement created by a federal General Land Office (GLO) patent reservation.
 - b. The City of Scottsdale's intent by the resolution is to abandon only the City of Scottsdale's specified interests in the land.
 - c. Other persons or entities may claim that the resolution does not completely extinguish the General Land Office (GLO) easement or may claim rights for themselves or others to use the land for various purposes and/or to prevent any improvement or use of the land that is affected by the resolution.
2. Interest Holder agrees that:
 - a. Interest Holder shall be entirely at Interest Holder's own risk as to any damages, delays, loss, difficulties, injury or other harm of any nature that Interest Holder or any third party may now or hereafter suffer due to the existence or abandonment of the easement or due to the resolution or the issues recited above. Interest Holder completely, unconditionally and irrevocably releases the City of Scottsdale from any and all legal or other responsibility for any such harm.
 - b. All of the Assurances run with the land in favor of the City of Scottsdale upon the right-of-way covered by the resolution and upon the land adjoining such right-of-way in which Interest Holder holds its interest.
 - c. The City of Scottsdale would not have approved the resolution without the Assurances.
3. Interest Holder makes the Assurances on behalf of Interest Holder and Interest Holder's heirs, successors and assigns, and the Assurances are binding upon all of them.

Interest Holder: Provident Funding Assoc L.P

by *Karen M. Corliss*
Karen M. Corliss
Its Asst Vice Pres

STATE OF ARIZONA)
) ss.
County of Maricopa)

Subscribed, sworn to and acknowledged before me by _____
this ____ day of _____ 20____

See Attached d

Notary Public

My Commission Expires: _____

Exhibit F
Page 1 of 12

See attached: Reference Document '1B'

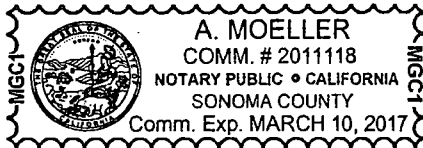
Jurat for Agmt + Release for Robert Miller
APN # 21731020FL6

Reference Document '1B'

State of California
County of Sonoma

Subscribed and sworn to (or affirmed) before me on this 12
day of September, 2014, by A. Moeller Notary Public

-----Karen M Corkins-----
proved to me on the basis of satisfactory evidence to be the
person(s) who appeared before me.



(Seal)

Signature A. Moeller

Exhibit "F"
Page 2 of 2

**LEGAL DESCRIPTION
NATURAL AREA OPEN SPACE
EASEMENT DEDICATION**

A Natural Open Space Easement being a portion of the East 150 feet of the South half of GLO Lot 17 of Section 25, Township 3 North, Range 5 East of the Gila and Salt River Base and Meridian, City of Scottsdale, Maricopa County, Arizona, described as follows:

Beginning at the Northwest corner of the East 150 feet of the South half of GLO Lot 17 of Section 25, Township 3 North, Range 5 East of the Gila and Salt River Base and Meridian, City of Scottsdale, Maricopa County, Arizona;

Thence South 89 degrees 58 minutes 53 seconds East, assumed bearing, along the North line of the South half of said GLO Lot 17, a distance of 142.00 feet, to the West line of the East 8.00 feet of said GLO Lot 17;

Thence South 00 degrees 06 minutes 23 seconds East, along the West line of the East 8.00 feet of said GLO Lot 17 a distance of 59.98 feet;

Thence North 89 degrees 59 minutes 17 seconds West, a distance of 67.19 feet;

Thence South 43 degrees 41 minutes 32 seconds West, a distance of 108.09 feet West line of the East 150.00 feet of said GLO Lot 17;

Thence North 00 degrees 06 minutes 23 seconds West, along the West line of the East 150.00 feet of said GLO Lot 17, a distance of 138.17 feet, to the Point of Beginning.

Area is 11,443 square feet.

**RESOLUTION NO. 9732
EXHIBIT "G"
PAGE 1 OF 1**



EXPIRES 6/30/17

NATURAL AREA OPEN
SPACE
EASEMENT DEDICATION

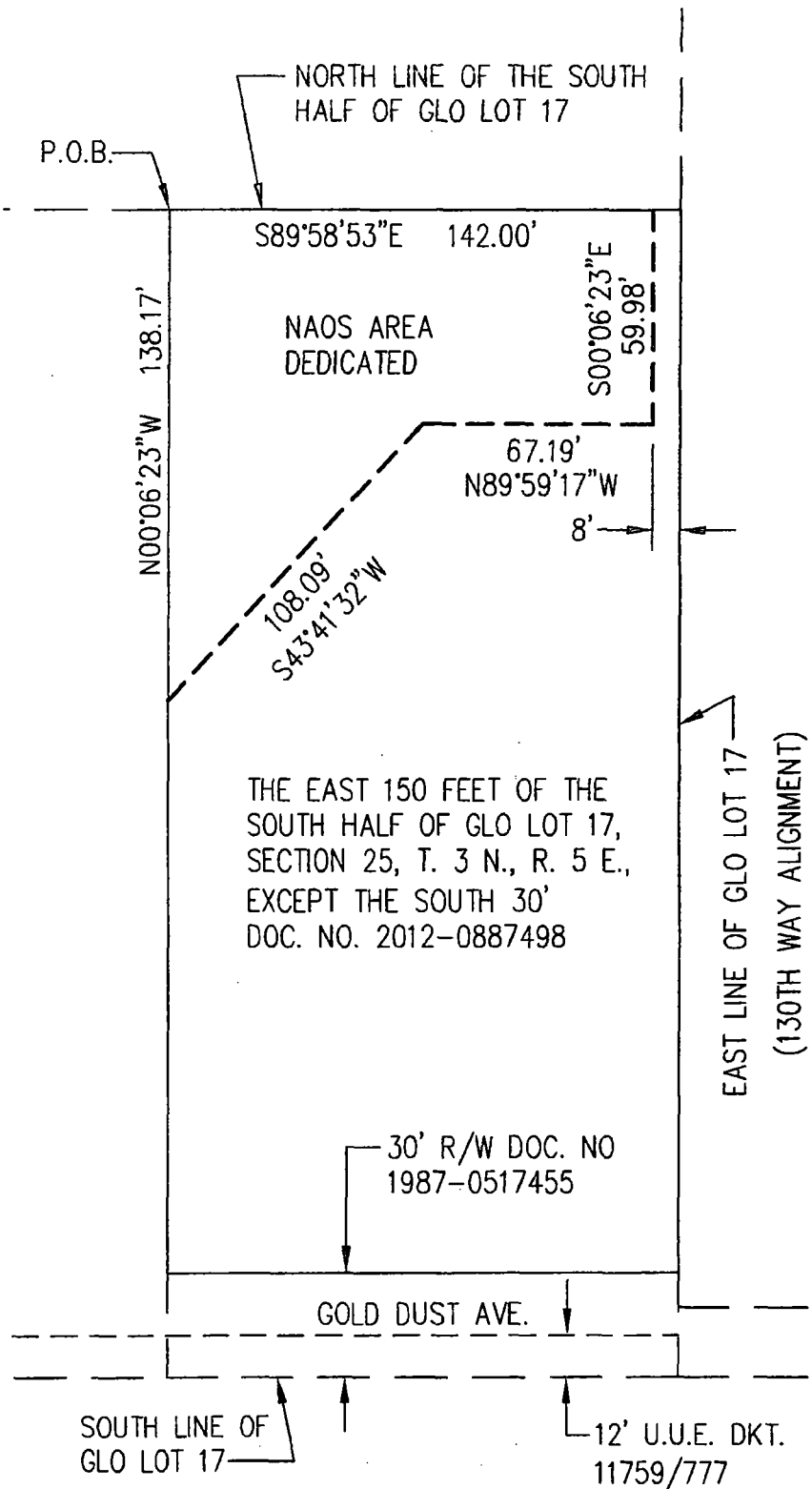


NOT TO SCALE

NOTES:
THIS IS NOT A BOUNDARY
SURVEY.
ALL VALUES ARE
CALCULATED, UNLESS
OTHERWISE NOTED.



EXPIRES 6/30/17



**LEGAL DESCRIPTION
PUBLIC UTILITIES
EASEMENT DEDICATION**

An area dedicated as public utilities easement being a portion of the East 150 feet of the South half of GLO Lot 17 of Section 25, Township 3 North, Range 5 East of the Gila and Salt River Base and Meridian, City of Scottsdale, Maricopa County, Arizona, described as follows:

The East 8.00 feet of the East 150 feet of the South half of GLO Lot 17 of Section 25, Township 3 North, Range 5 East of the Gila and Salt River Base and Meridian, City of Scottsdale, Maricopa County, Arizona, except the South 30.00 feet.



EXPIRES 6/30/17

**PUBLIC UTILITIES
EASEMENT DEDICATION**



NOT TO SCALE

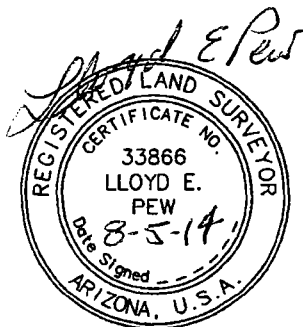
NOTES:

THIS IS NOT A
BOUNDARY SURVEY.

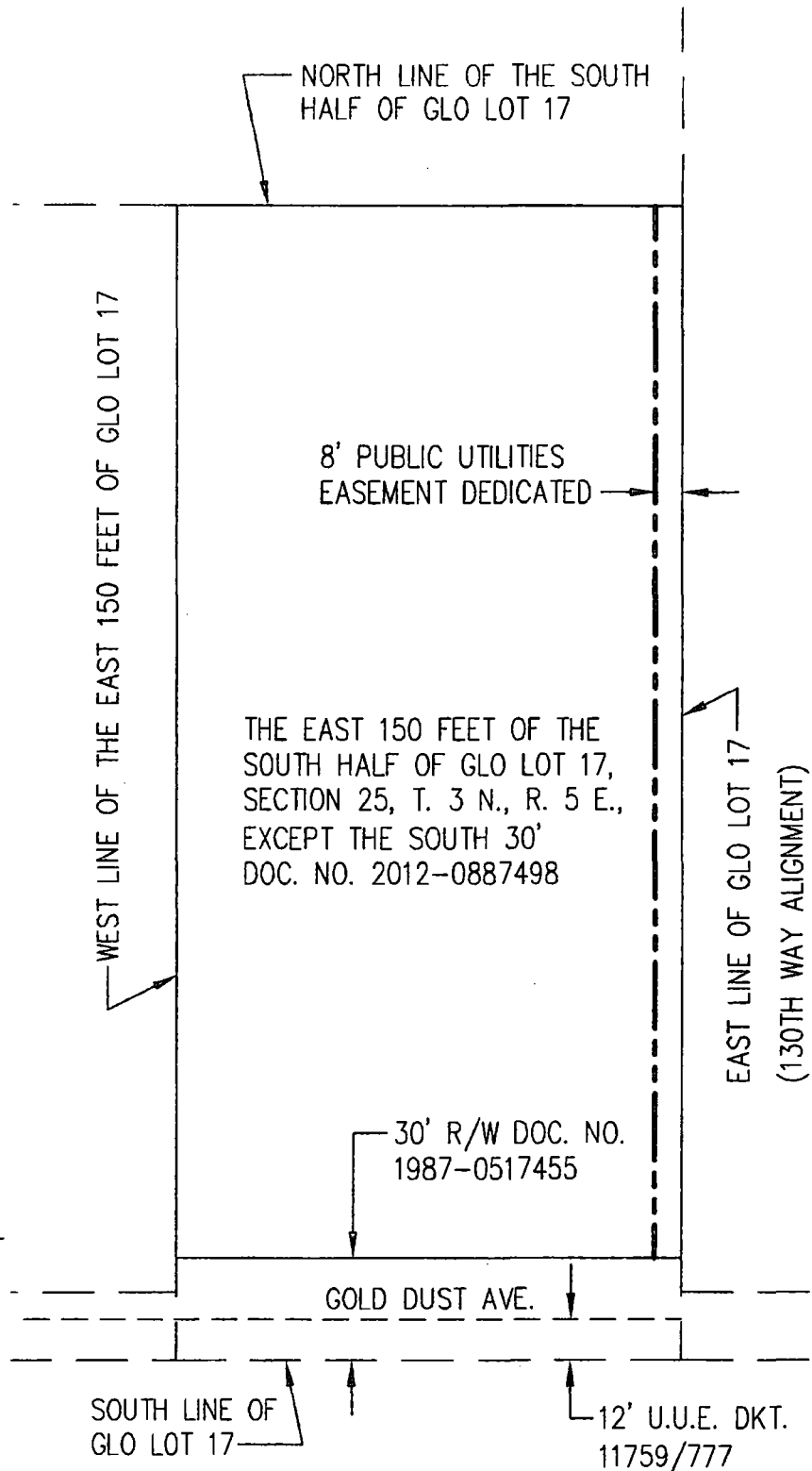
ALL VALUES ARE
CALCULATED, UNLESS
OTHERWISE NOTED.

R/W DENOTES RIGHT
OF WAY.

U.U.E. DENOTES
UNDERGROUND UTILITY
EASEMENT.



EXPIRES 6/30/17



Memo Regarding Abandonment Resolution

To: City Clerk

From: Project Coordinator

Re: Abandonment Resolution No. 9732 Re Gold Dust and 130th Way
(abandonment case no. 3-AB-2013)

I am the project coordinator for this abandonment.

According to paragraph 3 of this abandonment resolution, **this resolution is not to be recorded until the conditions are satisfied.**

Please do not record this abandonment resolution until the zoning administrator signs the certificate confirming that the conditions have been satisfied. The resolution will be void if the resolution is not recorded before the one-year anniversary of the city council hearing to approve the resolution.

I will monitor the conditions and inform you when the conditions are satisfied. About ten months after the hearing, if the zoning administrator has not already signed and delivered to you the certificate confirming that the conditions have been satisfied, I will contact you to give you a status report. At that time, one of the following three possibilities will be true:

1. The conditions will be satisfied at the last minute so that the resolution can be recorded and become effective.
2. The conditions will not be satisfied, but I will schedule a council agenda item to change the conditions or extend the time for satisfying the conditions.
3. The conditions will not be satisfied, and two things will happen as described in paragraph 3:
 - a. The abandonment will not become effective.
 - b. You will need to mark the resolution to indicate that it is void.

In any event, I will personally call you about 30 days before the one-year anniversary to inform you of the status of this abandonment.

If you have any questions, please do not hesitate to call me. Thank you.

Brandon Lebovitz, 2-4213

p.s. As you can see, recital G describes one or more GLO Easement liability releases that have already been signed and notarized, which are to be attached to and recorded with the resolution.

The original signed and notarized liability releases were not printed on archive paper. So, I have made copies of the liability releases on archive paper for you to record with the resolution. I have added exhibit labels to them. I have also delivered to you the original releases for you to keep with the resolution.



Project Narrative

This document will be uploaded to a Case Fact Sheet on the City's web site.

Date: 9-13-13

Project No: _____-PA-_____

Coordinator: _____

Case No: _____

Project Name: Miller Property

Project Location: 13030 East Gold Dust Ave

Property Details: ☒ Single-Family Residential ☐ Multi-Family Residential ☐ Commercial ☐ Industrial

Current Zoning: R1-43 ESL Proposed Zoning: Same

Number of Buildings: 1 Parcel Size: 45,785 sf

Gross Floor Area/Total Units: 6,275 Floor Area Ration/Density: 14%

Parking Required: _____ Parking Provided: _____

Setbacks: N - 35' E - 20' S - 40' W - 20'

Description or Request:

The purpose of this request is to abandon the existing GLO easement along the eastern property line of the property located at the following address:

13030 East Gold Dust Ave
Scottsdale, AZ 85259
APN: 217-31-020F

In addition, it is requested that the north 13' feet of the 33' GLO along the southern property line be abandoned. The 10' of the R.O.W. along Gold Dust is also requested to be abandon.

As compensation for this request, it will be proposed that an 10' Trail Easement north of the proposed R.O.W. along Gold Dust. It will be proposed that an 8 foot PUE be dedicated along the eastern property line, as well as an NAOS easement with an minimum area of 25% of the exsiting lot area. Please see attached Offer of Compensation.

Planning, Neighborhood & Transportation Division

7447 E Indian School Road, Suite 105, Scottsdale, AZ 85251 • Phone: 480-312-7000 • Fax: 480-312-7088

Proposed Compensation
For Abandonment of GLO
13030 E Gold Dust Ave
Scottsdale 85259

As part of our request for the City of Scottsdale to release GLO easement along the eastern and south property lines for the above listed property, we have prepared this letter of compensation.

To bring said property into compliance, the following easement dedication has been prepared:

1. 11,500 sqft of NAOS per plan.

The following is the breakdown of the GLO easements requested for abandonment:

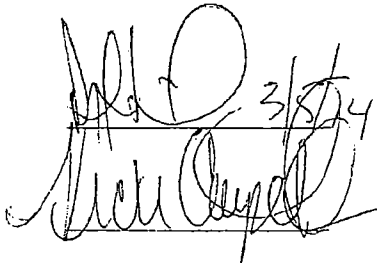
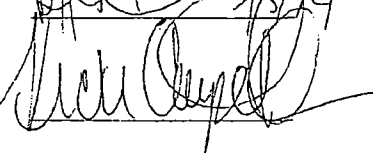
2. Along Eastern property line - 33' x 300' (9,900 SqFt)
3. Along Southern property line - 13' x 150' (1,950 SqFt)

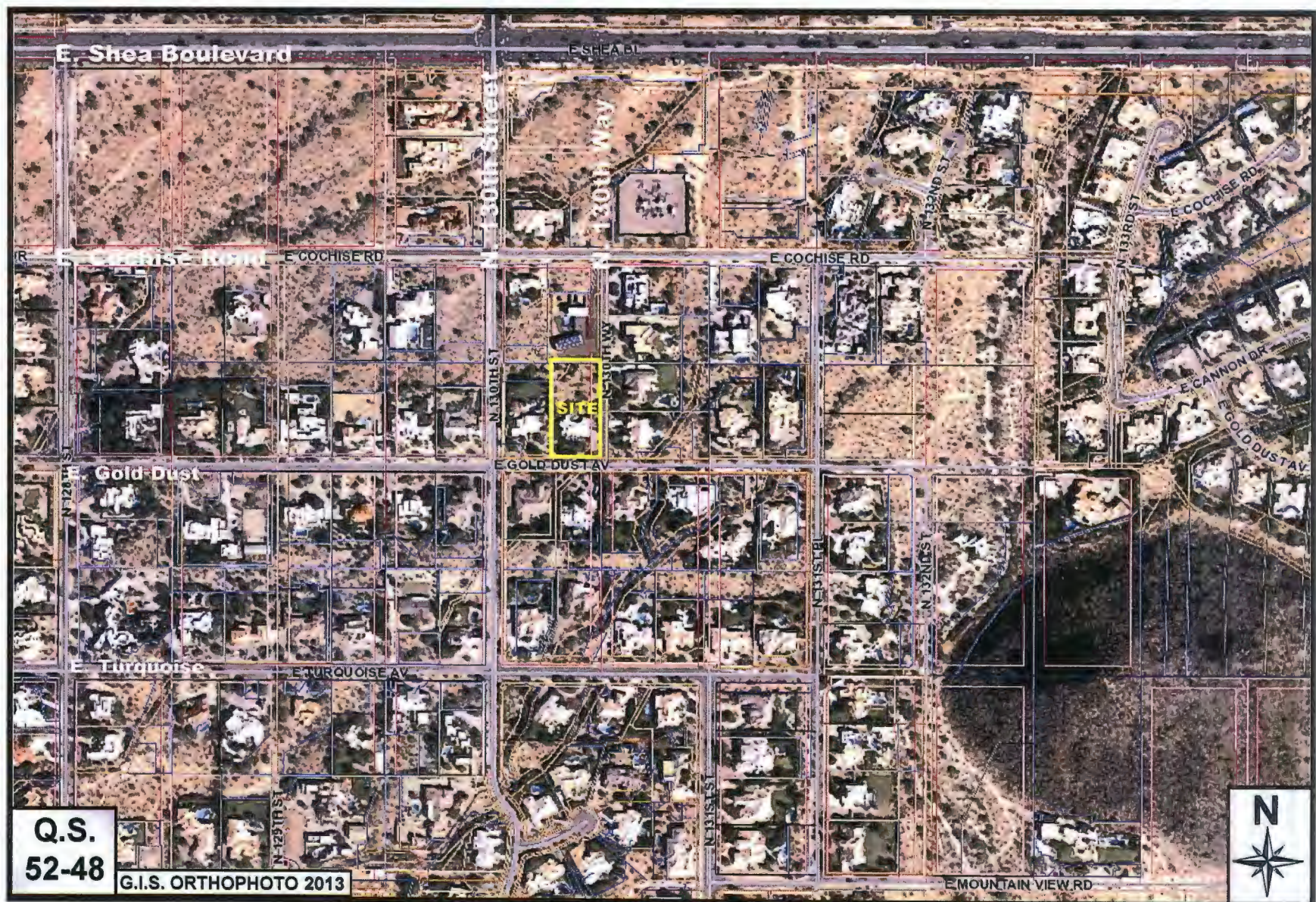
We propose the following easement to be dedicated and be considered during negotiations:

4. Along Eastern property line - A new PUE - 8' x 300' (2,400 SqFt)
5. Along Southern property line - A new Trail Easement - 10' x 150' (1,500 SqFt)

Please see attached Cover Letter and Real Estate Appraisal information provided by Zack G. Bunch with The Bunch Company Real Estate Services, LLC.

Thank you for your prompt attention to this matter. This has been a long and expensive undertaking for us.

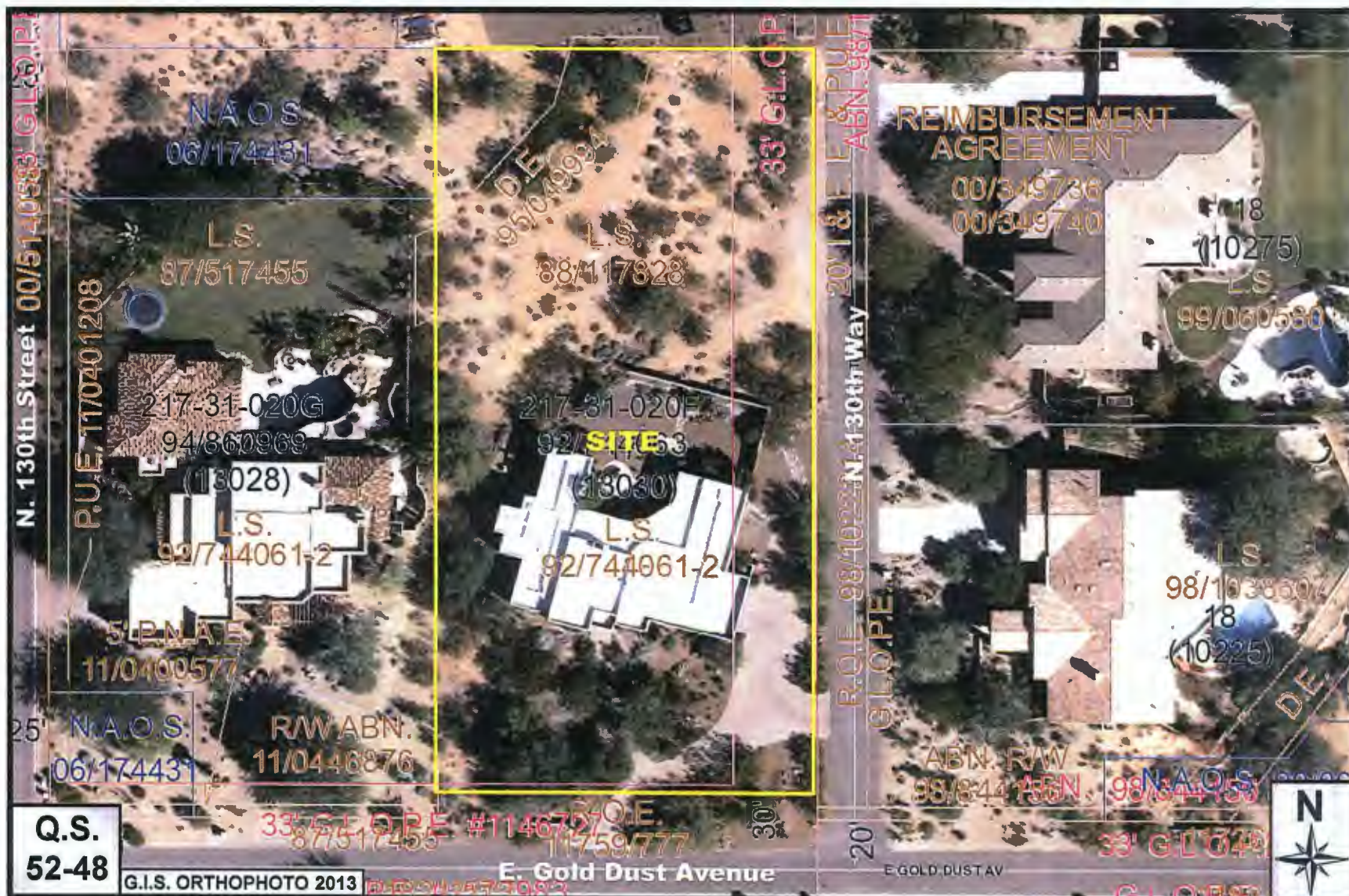
 3/5/14
 3/5/14



Context Aerial

3-AB-2013

ATTACHMENT #3



Aerial Close-up

3-AB-2013

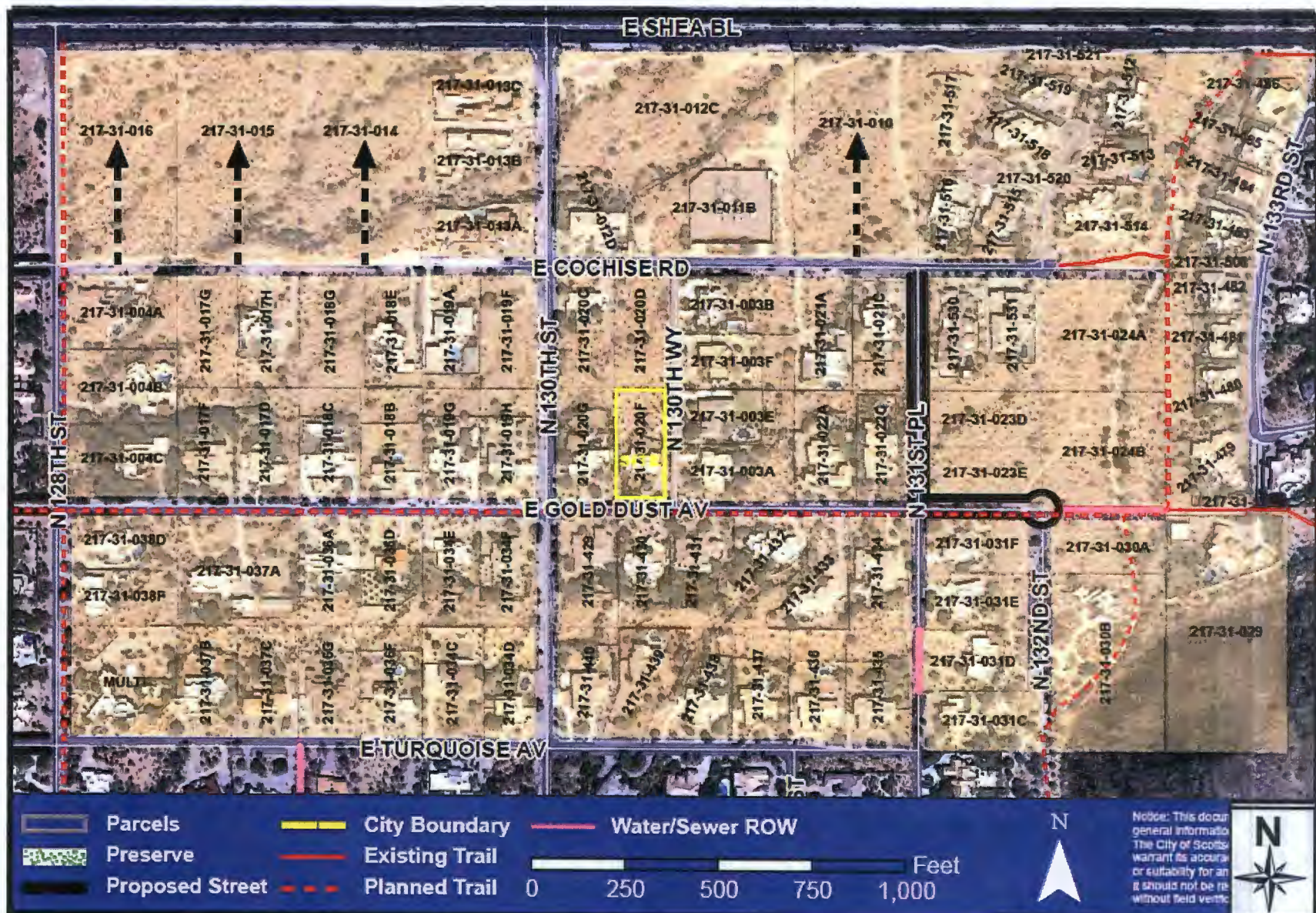
ATTACHMENT #3A



Zoning Map

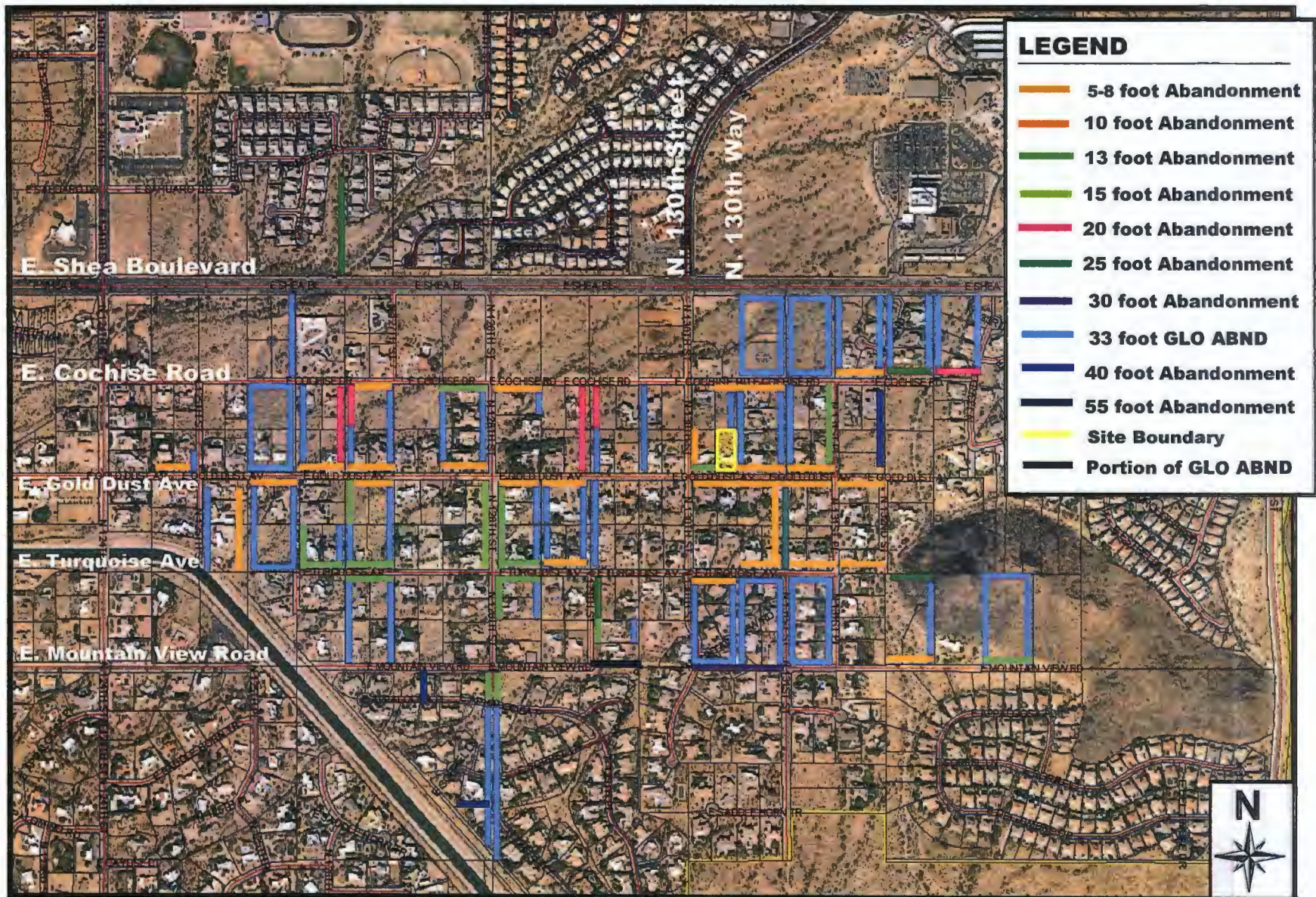
3-AB-2013

ATTACHMENT #5



Local Area Infrastructure Plan (LAIP)

3-AB-2013



Abandonment History Map

3-AB-2013

Date: _____

Re: Miller's Property Improvements

C.O.S. Plan Check # _____ (130th Street & Golddust Ave)

I, _____, the neighbor to the
Full name

_____ have been informed of the
Direction from project

proposed development to the existing residence located at the following address:

*13030 East Golddust Ave
Scottsdale, Arizona 85259
APN: 217-31-020 F*

Having reviewed the proposed improvements to the property, I have not objections
and support the proposed development.

Signature

Date

APN	Owner	Address	City	State	Zip
217-31-003A	Arnold Shirley	10255 N. 130th Way	Scottsdale	Arizona	85259
217-31-003B	Dr Omar M Amin Trust	10355 N. 130th Way	Scottsdale	Arizona	85259
217-31-003E	MPW 10275 LLC	10275 N. 130th Way	Scottsdale	Arizona	85259
217-31-003F	John Bitenc	10301 N. 130th Way	Scottsdale	Arizona	85259
217-30-011B	APS	13068 E. Cochise Rd	Scottsdale	Arizona	85259
217-31-012D	Diane & Robert MacClean	13044 E. Cochise Rd	Scottsdale	Arizona	85259
217-31-013A	Jason Jantz	12980 E. Cochise Rd	Scottsdale	Arizona	85259
217-31-018B	Coral & Adam Olinger	12948 E. Gold Dust Ave	Scottsdale	Arizona	85259
217-31-018E	Robin Hayward / Robert Edgar	12941 E. Cochise Rd	Scottsdale	Arizona	85259
217-31-019A	Kimberly & Donald Slager	12951 E. Cochise Rd	Scottsdale	Arizona	85259
217-31-019F	Sunita & Shashi Patel	Undeveloped	Scottsdale	Arizona	85259
217-31-019G	Nancy & Christopher Handel	12954 E. Gold Dust Ave	Scottsdale	Arizona	85259
217-31-019H	Troy Davila	12980 E. Gold Dust Ave	Scottsdale	Arizona	85259
217-31-020C	Marie & David Aller	13031 E. Cochise Rd	Scottsdale	Arizona	85259
217-31-020D	Noalex 3020 LLC	13055 E. Cochise Rd	Scottsdale	Arizona	85259
217-31-020G	SAS Qualified Personal Residence Trust	13028 E. Gold Dust Rd	Scottsdale	Arizona	85259
217-31-021A	Carin & Matthew Mosher	13101 E. Cochise Rd	Scottsdale	Arizona	85259
217-31-021C	Ricky Ngon	10350 N. 131st Pl	Scottsdale	Arizona	85259
217-31-022A	MLM Trust	13124 E. Gold Dust Ave	Scottsdale	Arizona	85259
217-31-022C	Peter Kelly	13130 E. Gold Dust Ave	Scottsdale	Arizona	85259
217-31-034C	Bonnie & Ronald Fields	12966 E. Turquoise Ave	Scottsdale	Arizona	85259
217-31-034D	Mark & Kathy Heisler Living Trust	12990 E. Turquoise Ave	Scottsdale	Arizona	85259
217-31-034E	Cynthia & Kent Campbell	12955 E. Gold Dust Ave	Scottsdale	Arizona	85259
217-31-034F	Marius Irina Nistor	12985 E. Gold Dust Ave	Scottsdale	Arizona	85259
217-31-036D	Buck Turney	12935 E. Gold Dust Ave	Scottsdale	Arizona	85259
217-31-429	Robert Fitzgerald	13001 E. Gold Dust Ave	Scottsdale	Arizona	85259
217-31-430	Todd Rosenbaum	13025 E. Gold Dust Ave	Scottsdale	Arizona	85259
217-31-431	CB Dawn Lane Trust	13049 E. Gold Dust Ave	Scottsdale	Arizona	85259
217-34-432	John Nightingale	13073 E. Gold Dust Ave	Scottsdale	Arizona	85259
217-31-433	Karukurichi Venkatesh	13101 E. Gold Dust Ave	Scottsdale	Arizona	85259
217-31-434	Kevin Young	13125 E. Gold Dust Ave	Scottsdale	Arizona	85259
217-31-436	Venu Raghavan	13102 E. Turquoise Ave	Scottsdale	Arizona	85259
217-31-437	Kuipers Family Trust	13074 E. Turquoise Ave	Scottsdale	Arizona	85259
217-31-438	Daniel Liberman	13050 E. Turquoise Ave	Scottsdale	Arizona	85259
217-31-439	Mark Kuo	13024 E. Turquoise Ave	Scottsdale	Arizona	85259
217-31-440	Brent Silver	13002 E. Turquoise Ave	Scottsdale	Arizona	85259

Lebovitz, Brandon

From: Lebovitz, Brandon
Sent: Friday, November 22, 2013 1:20 PM
To: 'leon_spiro@yahoo.com'
Subject: RE: Patent Easement Abandonment-#3-AB-2013

Mr. Spiro,

Thank you for your e-mail. Staff has received your comments regarding Case # 3-AB-2013 (Miller Residence Abandonment). This e-mail and all prior correspondence have been placed into the file as part of the permanent record, and will be included in all staff reports regarding this request. Please feel free to call or e-mail me if you have any additional questions or concerns.

Best regards,

Brandon

Brandon Lebovitz, Associate Planner

City of Scottsdale | Planning, Neighborhood & Transportation Division
7447 E. Indian School Road, Suite 105 Scottsdale, AZ 85251
blebovitz@scottsdaleaz.gov | 480.312.4213p | 480.312.7088f | www.scottsdaleaz.gov

From: leon spiro [mailto:leon_spiro@yahoo.com]
Sent: Friday, November 22, 2013 4:51 AM
To: Lebovitz, Brandon
Cc: Murillo, Jesus; Barnes, Jeff; Jagger, Carolyn; City Council; Washburn, Bruce; Scott, Sherry; Ward, Kelly; brendend@mcao.maricopa.gov; domanico@mcao.maricopa.gov; chucris@mail.maricopa.gov; Padilla, Joe; leon_spiro@yahoo.com; omaramin@aol.com; judy@burns-htc.com; bcoffin@lasvegasnevada.gov; sam@samjwest.com; john@reactionresearch.com; markstuart1001@cox.net; copperphillips@cox.net; prendergastk@mail.maricopa.gov; tfleming@azleg.gov; jburges@azleg.gov
Subject: Fw: Patent Easement Abandonment-#3-AB-2013

Brandon Leibovitz

, Staff Coordinator Case #3-AB-2013, Patent Easement Roadway Abandonment; Mr. Leibovitz: I reference Patent Easement Roadway Abandonment Case #3-AB-2013 and the previous correspondence sent below. Would you please acknowledge receipt of this correspondence to insure that this will be a part of all Staff Reports regarding this request. Leon Spiro, A Citizen of Scottsdale and a Federal Land Patent Parcel Property Homeowner. ----- Forwarded Message -----

From: leon spiro leon_spiro@yahoo.com
To: "blebovitz@scottsdaleaz.gov" <blebovitz@scottsdaleaz.gov>
Cc: "jmurillo@scottsdaleaz.gov" <jmurillo@scottsdaleaz.gov>; "leon_spiro@yahoo.com" <leon_spiro@yahoo.com>; "citycouncil@scottsdaleaz.gov" <citycouncil@scottsdaleaz.gov>; "citycouncil@lasvegasnevada.gov" <citycouncil@lasvegasnevada.gov>; "citycouncil@scottsdaleaz.gov" <citycouncil@scottsdaleaz.gov>; "bwashburn@scottsdaleaz.gov" <bwashburn@scottsdaleaz.gov>; "sscott@scottsdaleaz.gov" <sscott@scottsdaleaz.gov>; "cjagger@scottsdaleaz.gov" <cjagger@scottsdaleaz.gov>; "omaramin@aol.com" <omaramin@aol.com>; "judy@burns-htc.com" <judy@burns-htc.com>; "sam@samjwest.com" <sam@samjwest.com>; "ortegarchi@cox.net" <ortegarchi@cox.net>; "savemtrose@earthlink.net" <savemtrose@earthlink.net>; "john@saaronline.com" <john@saaronline.com>; "jmurillo@scottsdaleaz.gov" <jmurillo@scottsdaleaz.gov>; "bcarr@scottsdaleaz.gov" <bcarr@scottsdaleaz.gov>; "bcoffin@lasvegasnevada.gov" <bcoffin@lasvegasnevada.gov>;

["jhildalgo@rgj.com"](mailto:jhildalgo@rgj.com) <jhildalgo@rgj.com>; ["jpadilla@scottsdaleaz.gov"](mailto:jpadilla@scottsdaleaz.gov) <jpadilla@scottsdaleaz.gov>;
["renocop@earthlink.net"](mailto:renocop@earthlink.net) <renocop@earthlink.net>; ["jdial@azleg.gov"](mailto:jdial@azleg.gov) <jdial@azleg.gov>

Sent: Wednesday, October 16, 2013 10:21 AM

Subject: Fw: Patent Easement Abandonment-#3-AB-2013

Brandon Leibovitz: Staff Coordinator, Abandonment Request Case #3-AB-2013. Mr. Leibovitz: I find that you are now the Staff Coordinator for this Federal Land Patent Easement Abandonment request for this property. I ask, is the home on this property presently encroaching upon this deeded roadway patent easement? If so, was this authorized by the City of Scottsdale at time of construction? Will the City of Scottsdale still require documents from the present property owner that release the City of all responsibility for permitting construction within this deeded patent easement? Please mention in the Staff Report for this abandonment request, that "I oppose the abandonment" of the Small Tract Act of 1938 Federal Patent Roadway and Public Utilities Easement that is called for in the Federal Land Patent issued for this property. . Leon Spiro, A Citizen of Scottsdale and a Small TRact Act of 1938 Parcel Homeowner. Read Arizona Appellate Court Case #1 CA-CV 06-0756 and the discenting opinion of Judge Murray Snow. ----- Forwarded Message -----

From: leon spiro <leon_spiro@yahoo.com>

To: ["jmurillo@scottsdaleaz.gov"](mailto:jmurillo@scottsdaleaz.gov) <jmurillo@scottsdaleaz.gov>

Cc: ["leon_spiro@yahoo.com"](mailto:leon_spiro@yahoo.com) <leon_spiro@yahoo.com>; ["citycouncil@scottsdaleaz.gov"](mailto:citycouncil@scottsdaleaz.gov)

<citycouncil@scottsdaleaz.gov>; ["cjagger@scottsdaleaz.gov"](mailto:cjagger@scottsdaleaz.gov) <cjagger@scottsdaleaz.gov>;

["bwashburn@scottsdaleaz.gov"](mailto:bwashburn@scottsdaleaz.gov) <bwashburn@scottsdaleaz.gov>; ["sscott@scottsdaleaz.gov"](mailto:sscott@scottsdaleaz.gov)

<sscott@scottsdaleaz.gov>; ["jpadilla@scottsdaleaz.gov"](mailto:jpadilla@scottsdaleaz.gov) <jpadilla@scottsdaleaz.gov>; ["leon_spiro@yahoo.com"](mailto:leon_spiro@yahoo.com)

<leon_spiro@yahoo.com>; ["bcarr@scottsdaleaz.gov"](mailto:bcarr@scottsdaleaz.gov) <bcarr@scottsdaleaz.gov>; ["bcoffin@lasvegasnevada.gov"](mailto:bcoffin@lasvegasnevada.gov)

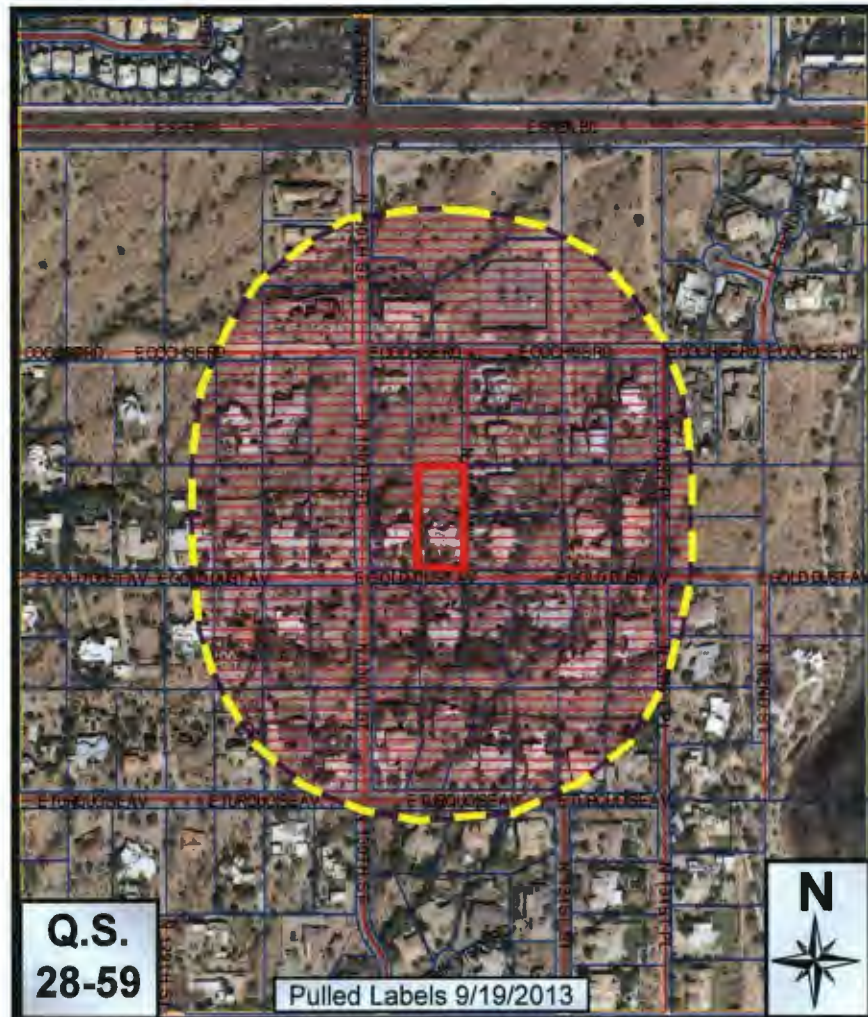
<bcoffin@lasvegasnevada.gov>

Sent: Sunday, October 6, 2013 1:58 PM

Subject: Patent Easement Abandonment-#3-AB-2013

Jesus Murillo, City Contact, Planning Department, City of Scottsdale; Mr. Murillo: Have the rules changed regarding the "dominant tenement easement right and the servient tenement easement obligation " of all Small Tract Act of 1938 parcel owners", regarding the deed? Do you inform the applicant of this belief? These deeded easements can usually only be found in the original Federal Land Patent document? We believe that these Small Tract Patent Roadway and public utilities easements become private roadways when the city of Scottsdale "abandons it's interest" in these roadway easements. It is time once again to call Professor / Attorney Gary Birnbaum in for an educational Study Session for the Council and Citizens of Scottsdale and for those that are tempted to purchase a property that has encroached. Why not mention this suggestion to the Governing Body. Is this an encroaching property? I will never forget the door. It is needed now more than ever. Spiro A Citizen of Scottsdale and a Federal Land Patent Property Homeowner.

City Notifications – Mailing List Selection Map



Map Legend:



Site Boundary



Properties within 750-foot

Postcards 99 (HUP)

Postcards 99 (PC)

Postcards 99 (CC)

Additional Notifications:

- Interested Parties List
- Adjacent HOA's
- P&Z E-Newsletter
- Facebook
- Twitter
- City Website-Projects in the hearing process

Miller Residence Abandonment

3-AB-2013

ATTACHMENT #10



**SCOTTSDALE PLANNING COMMISSION
KIVA-CITY HALL
3939 DRINKWATER BOULEVARD
SCOTTSDALE, ARIZONA**

WEDNESDAY, JUNE 11, 2014

SUMMARIZED MEETING MINUTES

PRESENT: Michael D'Andrea, Chairman
Ed Grant, Vice-Chair
Michael Edwards, Commissioner
Matt Cody, Commissioner
Erik Filsinger, Commissioner
Jay Petkunas, Commissioner
David Brantner, Commissioner

STAFF: Tim Curtis
Sherry Scott
Don Hadder
Kira Wauwie
Brad Carr
Brandon Lebovitz

CALL TO ORDER

Chair D'Andrea called the regular session of the Scottsdale Planning Commission to order at 5:01 p.m.

ROLL CALL

A formal roll call was conducted confirming members present as stated above.

* Note: These are summary action minutes only. A complete copy of the meeting audio is available on the Planning Commission website at:

www.scottsdaleaz.gov/boards/PC.asp

MINUTES REVIEW AND APPROVAL

1. Approval of May 28, 2014 Regular Meeting Minutes including Study Session.

VICE CHAIR GRANT MOVED TO APPROVE THE MAY 28, 2014 REGULAR MEETING MINUTES, INCLUDING STUDY SESSION. SECONDED BY COMMISSIONER CODY, THE MOTION CARRIED UNANIMOUSLY WITH A VOTE OF SEVEN (7) TO ZERO (0).

EXPEDITED AGENDA

2. 484-PA-2014 (Development Review Board Approval Language Text Amendment)
3. 3-AB-2013 (Miller Residence Abandonment)
4. 5-ZN-2014 (First Avenue Townhomes)

ITEM NO'S. 2, 3 & 4 MOVED TO INITIATE 484-PA-2014; RECOMMENDED CITY COUNCIL APPROVE CASES 3-AB-2013 AS AMENDED AND 5-ZN-2014, BY A VOTE OF SEVEN (7) TO ZERO (0); MOTION BY COMMISSIONER BRANTNER, PER THE STAFF RECOMMENDED STIPULATIONS, AFTER DETERMINING THAT THE PORPOSED ABANDONMENT AND ZONING DISTRICT MAP AMENDMENT INCLUDING APPROVAL OF THE AMENDED DEVELOPMENT STANDARDS AND THE DEVELOPMENT PLAN ARE CONSISTENT AND CONFORM WITH THE ADOPTED GENERAL PLAN, SECONDED BY COMMISSIONER PETKUNAS.

NON-ACTION ITEM

5. 4-TA-2014 (Lighting Text Amendment)

ADJOURNMENT

With no further business to discuss, the regular session of the Planning Commission adjourned at 5:26 p.m.

* Note: These are summary action minutes only. A complete copy of the meeting audio is available on the Planning Commission website at:
www.scottsdaleaz.gov/boards/PC.asp

Jagger, Carolyn

From: leon spiro <leon_spiro@yahoo.com>
Sent: Wednesday, November 12, 2014 7:36 AM
To: Lebovitz, Brandon; Jagger, Carolyn
Cc: Leon Spiro; City Council; Lane, Jim; Gail Griffin; Robbins, Dennis E; Washburn, Bruce; Korte, Virginia; Milhaven, Linda; John Washington; Mark Stuart; leon.spiro@gmail.net
Subject: Due diligence, Agenda Item #3-AB-2013, 12 November 2014.

Council Members. sorry that I am unable to attend your meetings. I reference Agenda Item #3-AB-2013, Miller Residence Abandonment. I request that this item be removed from the Consent Agenda and placed on the Regular Agenda due to its complexity of this issue. . Request that any "members of the Scottsdale City Council that have or have had a "vested interest in Small Tract Act of 1938 Easement Abandonments (release) of these Roadway Easements in Scottsdale , excuse themselves from this item's decisioning. I understand that this has not been done in the past by those involved.? I am of the understanding that the City of Scottsdale , Arizona "is only abandoning the interest of the City of Scottsdale in these Small Tract Act of 1938 Federal Patent Roadway and Public Utilities Easements and not any "Dominant Tenement Easement Rights and Servient Tenement Easement obligations" afforded these properties, as originally deeded at time of sale by the Federal Government. Therefore, , with this abandonment procedure wording of "Cities Interest only" disappearing from these documents, and all persons involved are now oblivious and unaware of what the City of Scottsdale Council is releasing and/or abandoning, which is only "the Cities interest". if this is meant to be a "total abandonment of these roadway and public utilities easements, "I oppose approving of this abandonment" request . I "do not oppose the release of only the Cities Interest " in this abandonment request. But, I repeat, I "do oppose this abandonment request" if it is intended to mean "abandonment of these easements IN TOTAL". It appears that the City of Scottsdale's personnel involved, permitted this easement right taking at the time of construction. We believe , after the City of Scottsdale "releases its interest in these roadway easements, that they become "private roadways" after the "release abandonment process". Does the owner have "full Title Insurance Coverage" for this property? Are the required "Agreement Release Documents" correct? Have they been approved as to legality by the Scottsdale City Attorney? Who is the present Lender? Is a Federal Government Enterprise now involved? The City of Scottsdale's Zoning Administrator must be flawless with his approval of documentation that is required. " Mortgage Brokers are not Lenders". . Your Staff Report references ARS #28-7201, et seq. I am of the understanding that the City of Scottsdale does not own these "patent roadway easements" but has only the right of useage for roadways and public utilities. in which the City of Scottsdale is now "releasing / abandoning the City of Scottsdale's Interest". Reference ; Kennedy v. City of Phoenix #1. Also referenced is ARS 9-500.24. Will any responsible party answer for the record, as to what "patent easements they are permitting to be abandoned"? "What is said and what is written should be the same". If we are correct, one wonders who will be the last owner to sell a home that was built and has encroached on a Small Tract Act of 1938 Roadway and Public Utilities Easement? "Due Diligence is required". Leon Spiro, A Citizen of Scottsdale and a Federal Patent Parcel Homeowner